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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
COLUCCI, MICHAEL C	
ART UNIT	PAPER NUMBER
2609	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

SK

Office Action Summary	Application No.	Applicant(s)	
	10/726,102	AGAPI ET AL.	
	Examiner	Art Unit	
	Michael C. Colucci	2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *December 2, 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/22/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-20 rejected less than 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

a. Claims 1-10 are under the statutory category of a process as each claim demonstrates steps of action performed. However all the requirements for utility are not met. The claims fall under the Judicial Exception of an abstract idea i.e., an algorithm. Neither a physical transformation of data nor a recitation of a useful, concrete and tangible result with respect to a real world use is recited in the claims. As a consequence, there is no assured result that can be shown by claim 1 or 10, as well as dependent claims 2-9. See MPEP 2106: IV(B)(1)(a), last paragraph.

b. Claims 11-18 are under the statutory category of an apparatus. Though a physical medium, such as a programmed processor, is disclosed in the independent claim 11, there is no assured useful, concrete and tangible result recited in the claim. No resultant product is present within these claims. See MPEP 2106: IV(B).

c. Claims 19-20 pertain to functional descriptive material for performing the recited steps. Though *machine* is mentioned, there is no machine process that produces a useful, concrete and tangible result as claimed. See MPEP 2106: IV(B)(1)(a), last paragraph.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7-15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakisaka, US 6,112,174.

Re claim 1, Wakisaka teaches a method in a speech recognition application callflow (fig. 1 or 4 illustrates a system for conducting a speech recognition callflow. Note: a "call flow" as claimed is nothing more than an interaction within a voice response application particularly input and response. Thus, fig. 1 or 4 of Wakisaka encompasses this aspect. See also col. 4, lines 56-68), comprising the steps of:

placing a prompt into a workspace for the speech recognition application workflow (inputted speech via microphone 101);

and attaching at least one among a pre-built grammar (dictionary 104 is the pre-built grammar as claimed. Note: A pre-built grammar list as claimed is broad as to be construed as a dictionary)

and a user-entered individual new option to the prompt (col. 7 line 13-19. Wakisaka states "In the case where there is no corresponding word in a dictionary for an inputted speech, or in the case where the result of judgment in step ST504 is affirmative, the dictionary change-over section 103 receives the

result of recognition 401 indicating the absence of the corresponding word and makes a change to a word dictionary of the next candidate made of an object of recognition (step 505)").

Re claim 2, the method of claim 1, wherein the step of attaching the pre-built grammar comprises the step of selecting the pre-built grammar from a list (col. 11, line 13-16, teaches how words or sentences of speech are recognized and defined as a dictionary; col. 11, line 63-65 teaches "a dictionary selected from said plurality of dictionary for speech recognition").

Re claim 3, the method of claim 2, wherein the method further comprises the step of searching the list of pre-built grammars for matches to the user-entered individual new option. The aspects recited in claim 3 have been analyzed and rejected w/r to claim 1 above (col. 7 line 13-19).

Re claim 4, the method of claim 3, wherein if a match exists between the pre-built grammar and the user-entered individual new option, then the user-entered individual new option points to an equivalent pre-built grammar. (Col. 7 Line 20-25; Note: the claimed aspects are broad enough as to be viewed as synonymous for " the case where there is the corresponding word in a dictionary for an inputted speech (or in the case where the result of judgment in step ST504 is negative), the speech recognition processing is completed and the flow proceeds to the next processing for the result of recognition in the system."

Claim 5 has been evaluated and rejected with respect to claim 4. When a match exists between dictionary grammar and user-entered grammar, the dictionary grammar was already part of a list and does not need to be formed.

Re claim 7, when a user enters data into the workspace of a call flow and the data is added to a new dictionary/grammar file, the output would inherently be the customized result after speech processing. (See Fig. 1 or Fig. 4: 109)

Re claim 8, prototype by a user is broad as to be interpreted as creating something new or not final. This is understood to mean creating new grammar for the first time that does not exist in a pre-defined grammar list or dictionary until the speech processing is completed. (Col. 9 line 31-34)

Re claim 9, in figure 6, "make change to dictionary indicated by result of recognition" indicates that no auxiliary dictionary is formed; rather the data is added to an existing dictionary.

Re claim 10, which summarizes the aspects of claims 1 and 4. Thus, it has been analyzed and rejected w/r to claims 1 and 4.

Re claim 11, Wakisaka discloses "A system for managing grammar options in a graphical callflow builder (fig. 1 or 4), comprises: a memory (104, 105); and a processor (106, col. 4, line 56-58) programmed to place a prompt into a workspace for the speech recognition application workflow (see discussion in claim 1); and attach at least one among a pre-built grammar and a user-entered individual new option to the prompt (see discussion in claim 1).

Re claim 12, see discussion for claim 2.

Re claim 13, see discussion for claim 3.

Re claim 14, see discussion for claim 4.

Re claim 15, see discussion for claim 5.

Re claim 17, see discussion for claim 7.

Re claim 18, see discussion for claim 8.

Re claim 19, a machine readable storage is described that stores a computer program that applies the method of claim 1. A machine-readable storage would be necessary to house a computer program in order for the method of claim 1 to be applied. No specific storage system is disclosed that is materially different than one required to apply the method of claim 1, therefore claim 19 is rejected in view of claim 1. See discussion for claim 1 as well as (Col. 4 line 48-54 and Fig. 1).

Re claim 20, see discussion for claim 2.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: **(See MPEP Ch. 2141)**

a. Determining the scope and contents of the prior art;
b. Ascertaining the differences between the prior art and the claims in issue;

c. Resolving the level of ordinary skill in the pertinent art; and
d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

6. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakisaka, US 6,112,174 as applied to claims 1 and 11 above and further in view of Thomson, VoiceXML Vol. 2 Issue 7 (hereinafter, "Thomson").

Re claim 6, Wakisaka fails to teach VoiceXML as being part of the call flow system disclosed. However, Thomson discloses such information where "the VoiceXML gateway executes VoiceXML code and uses text-to-speech and speech recognition software to communicate with callers." (See Fig. 1, 2,and 3 and paragraph 4 line 2).

Therefore, the combined teachings of Wakisaka and Thomson would have caused the implementation of VoiceXML to be obvious for an advantage in speech-enabled applications.

Re claim 16, Claim 16 applies the method of claim 6. See discussion for claim 6

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 7099824 B2, US 5799273 A, US 6961700 B2, US 7024348 B1, US 6112174 A.

Contact

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Colucci Jr. whose telephone number is (571) 272-1847. The examiner can normally be reached on M-F 7:30-5:00 alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-7332.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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